

HB Bill 396  
February 14, 2013  
Presented by Quentin Kujala  
House Agricultural Committee

Mr. Chairman and committee members, I am Quentin Kujala from Wildlife Montana Department of Fish, Wildlife and Parks (FWP). I am here in opposition to House Bill 396.

FWP appreciates the concern about bison translocation, but rises in opposition to this bill as it erodes authority for management of Montana's wildlife at a statewide level by giving individual counties "veto" power over wildlife management decisions. Our agency is governed by a commission, which provides significant public oversight. Additionally, we must adhere to various laws like MEPA and NEPA that require a full public airing of any decision. This legislation seeks to tip this balance for the first time by granting to Counties new wildlife authority without any requirements on how the review in section one is to be conducted. Because wildlife don't recognize county boundaries, wildlife management decisions are best made at the state level to allow for consideration of cross jurisdiction and broad scale habitat issues.

With that said, we do welcome input from county governments on wildlife management issues, including bison. Specific to bison, current statute requires a management plan before bison translocation could occur. Per 87-1-216(5), the management plan must include

- (a) measures to comply with any applicable animal health protocol required under Title 81, under subsection (2)(b), or by the state veterinarian;
- (b) any animal identification and tracking protocol required by the department of livestock to identify the origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);
- (c) animal containment measures that ensure that any animal transplanted or released on private or public land will be contained in designated areas. Containment measures must include but are not limited to:
  - (i) any fencing required;
  - (ii) contingency plans to expeditiously relocate wild buffalo or bison that enter private or public property where the presence of the animals is not authorized by the private or public owner;
  - (iii) contingency plans to expeditiously fund and construct more effective containment measures in the event of an escape; and
  - (iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious relocation of wild buffalo or bison if the department is unable to effectively manage or contain the wild buffalo or bison.
- (d) a reasonable means of protecting public safety and emergency measures to be implemented if public safety may be threatened;
- (e) a reasonable maximum carrying capacity for any proposed designated area using sound management principles, including but not limited to forage-based carrying capacity, and methods for not exceeding that carrying capacity; and
- (f) identification of long-term, stable funding sources that would be dedicated to implementing the provisions of the management plan for each designated area.

It also requires: "When developing a management plan in accordance with subsection (5), the department shall provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to making a decision to release or transplant wild buffalo or bison onto private or public land in Montana, the department shall respond to all public comment received and publish a full record of the proceedings at any public hearing."

In addition to the above, any management plan will undergo MEPA process, as well as require Commission approval. Both of these processes also provide the opportunity for public input and comment, including from county commissions.

FWP's intent regarding bison is to complete a statewide look at whether there are places for wild bison on the Montana landscape. This will be done through development of a programmatic EIS. We completed a significant public scoping process last summer, and are completing analysis of those comments now to include further research on the issues and concerns expressed during the scoping. The next logical step is to convene local working groups to further explore issues, options, and opportunities in any area that might be considered for bison translocation. At this point, there have been no decisions made during this EIS process.

Another issue associated with this bill is potential conflict with MCA7-1-111. Authorizing counties to approve the transplant of bison is in direct conflict with MCA 7-1-111(12) that prohibits counties with self-government powers, which are almost all counties, from exercising "any power that applies to or affects . . . Title 87."

Finally, this bill appears to supersede Tribal authority to determine what might happen on their reservation. At a minimum, it introduces uncertainty about whether a county commission must approve the translocation of bison onto a reservation that is within the boundaries of a particular county.

FWP believes there is substantial public process for counties to weigh in on decisions such as bison translocation, and recommends a DO NOT PASS vote on House Bill 396.